

**UNITED STATES DEPARTMENT OF COMMERCE****Patent and Trademark Office**

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*Am*

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/538,584	03/29/00	COGSWELL	D 634

QM12/1122  
LAW OFFICES OF JOHN D GUGLIOTTA PE ESQ  
202 DELAWARE BUILDING  
137 SOUTH MAIN STREET  
AKRON OH 44308

EXAMINER	
THOMAS, D	
ART UNIT	PAPER NUMBER
3723	3
DATE MAILED: 11/22/00	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/538,584	COGSWELL, DANIEL
	Examiner	Art Unit
	David B. Thomas	3723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 29 March 2000.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1 and 2 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1 and 2 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 29 March 2000 is/are objected to by the Examiner.

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

#### Attachment(s)

15) Notice of References Cited (PTO-892)

16) Notice of Draftsperson's Patent Drawing Review (PTO-948)

17) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2 SUBSTITUTE

18) Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.

19) Notice of Informal Patent Application (PTO-152)

20) Other:

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. Because the Information Disclosure Statement provided by Applicant does not appear on a PTO Form 1449, the Examiner is citing the references on the PTO Form 892 to place the references in proper format.

### ***Drawings***

2. The drawings are objected to under 37 CFR 1.83(a) because they fail to show the rear disc 17 and handgrip 20 as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Correction is required.
3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the rear disc and the handgrip must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:  

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1 and 2 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. Claim 1 recites limitations for an apparatus having four elements, however according to the drawings, there are only two elements. Furthermore, the Applicants states that the front disc is attached to the first end in a perpendicular fashion, but review of the drawing figures would suggest that the disc is axially aligned with the elongate rod and subsequently the disc would be attached in parallel. Appropriate clarification and correction is required.

7. Claim 2 contains no functional language. Please review for grammatical corrections.

8. Normally a claim or claims which fail to comply with the first and/or second paragraph of 35 USC 112, will not be analyzed as to whether it is patentable over the prior art since doing so would, of necessity, require speculation with regard to the metes and bounds of the claimed subject matter. *In re Steele*, 308 F.2d 859, 862-63, 134 USPQ 292, (CCPA 1962) and *In re Wilson*, 424 F.2d 1382, 1385, 496 USPQ 494, 496 (CCPA 1970).

### ***Conclusion***

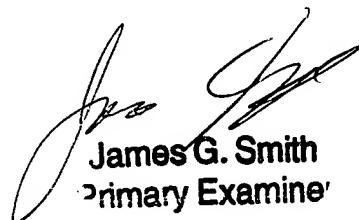
9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Thompson discloses a four-wheel drive locking hub tool. Astle, Bayouth, Bryant et al, Iwinski, Meldal, Payne et al, and Williams et al each disclose wrenching devices.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David B. Thomas whose telephone number is (703) 308-4250. The examiner can normally be reached on 8:00-6:30 M-TH.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

DBT

November 17, 2000



James G. Smith  
Primary Examiner

**ATTACHMENT TO AND MODIFICATION OF**  
**NOTICE OF ALLOWABILITY (PTO-37)**  
***(November, 2000)***

**NO EXTENSIONS OF TIME ARE PERMITTED TO FILE  
CORRECTED OR FORMAL DRAWINGS, OR A SUBSTITUTE  
OATH OR DECLARATION**, notwithstanding any indication to the  
contrary in the attached Notice of Allowability (PTO-37).

If the following language appears on the attached Notice of Allowability, the  
portion lined through below is of no force and effect and is to be ignored<sup>1</sup>:

A SHORTENED STATUTORY PERIOD FOR RESPONSE to comply with the requirements noted below is set to  
EXPIRE **THREE MONTHS** FROM THE "DATE MAILED" of this Office action. Failure to comply will result in  
ABANDONMENT of this application. ~~Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).~~

Similar language appearing in any attachments to the Notice of Allowability,  
such as in an Examiner's Amendment/Comment or in a Notice of  
Draftperson's Patent Drawing Review, PTO-948, is also to be ignored.

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<sup>1</sup> The language which is crossed out is contrary to amended 37 CFR 1.85(c) and 1.136. See "Changes to Implement the Patent Business Goals", 65 Fed. Reg. 54603, 54629, 54641, 54670, 54674 (September 8, 2000), 1238 Off. Gaz. Pat. Office 77, 99, 110, 135, 139 (September 19, 2000).